

§ 194.25 Retail dealer in beer.

(a) *General.* Every person who sells or offers for sale beer, but not distilled spirits or wines, to any person other than a dealer is, except as provided in paragraph (b) of this section, a retail dealer in beer. Every retail dealer in beer shall pay special tax at the rate specified in § 194.101 for such dealer, unless such dealer is exempt from such special tax as provided in paragraph (c) of this section.

(b) *Persons not deemed to be retail dealers in beer.* The following persons are not deemed to be retail dealers in beer within the meaning of Chapter 51, I.R.C., and are not required to pay a special tax as such dealer:

(1) A limited retail dealer as specified in § 194.27, or

(2) A person who only sells or offers for sale beer, but not distilled spirits or wines, as provided in § 194.188 through § 194.189 or § 194.191(a).

(c) *Persons exempt from special tax.* The following persons are exempt from special tax as retail dealers in beer:

(i) A wholesale dealer in beer selling or offering for sale beer, but not distilled spirits or wines, whether to dealers or persons other than dealers, at any place where such wholesale dealer in beer is required to pay special tax as such dealer.

(2) A person who is exempt from special tax under the provisions of §§ 194.181, 194.184, 194.187, or 194.187a.

(72 Stat. 1340, 1343, 1344; 26 U.S.C. 5113, 5121, 5122)

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55843, Sept. 28, 1979; T.D. ATF-271, 53 FR 17552, May 17, 1988]

§ 194.26 Wholesale dealer in beer.

(a) *General.* Every person who sells or offers for sale beer, but not distilled spirits or wines, to another dealer is, except as provided in paragraph (b) of this section, a wholesale dealer in beer. Every wholesale dealer in beer is required to pay special tax at the rate specified in § 194.101 for such dealer, unless such dealer is exempt from such special tax as provided in paragraph (c) of this section.

(b) *Persons not deemed to be wholesale dealers in beer.* The following persons

are not deemed to be wholesale dealers in beer within the meaning of 26 U.S.C., Chapter 51, and are not required to pay special tax as such dealer:

(1) A person who only sells or offers for sale beer, but not distilled spirits or wines, as provided in § 194.188 through § 194.189 or § 194.192, or

(2) A person returning beer for credit, refund or exchange as provided in § 194.193.

(c) *Persons exempt from special tax.* (1) The following persons are exempt from special tax as wholesale dealers in beer:

(i) A retail dealer in liquors who consummates sales of distilled spirits, beer or wine, or any combination thereof, to a limited retail dealer at the place where such retail dealer in liquors has paid the special tax as such dealer for the current tax year.

(ii) A retail dealer in beer who consummates sales of beer to a limited dealer at the place where such retail dealer in beer has paid the special tax as such dealer for the current tax year, or

(iii) A person who is exempt from such tax under the provisions of §§ 194.181 and 194.184.

(2) A wholesale dealer in beer who has paid the special tax as such dealer at the place, or places, from which he conducts his selling operations is exempt from additional special tax on account of his sales of beer to other dealers at the places of business of such dealers.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1340, as amended, 1344, as amended; sec. 1905, Pub. L. 94-455, 90 Stat. 1819 (26 U.S.C. 5111, 5112, 5113, 5123))

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-42, 42 FR 8369, Feb. 10, 1977]

§ 194.27 Limited retail dealer; persons eligible.

Any person selling distilled spirits, beer or wine, or any combination thereof, to members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or similar outings, and any fraternal, civic, church, labor, charitable, benevolent, or ex-servicemen's organization selling distilled spirits, beer or wine, or any combination thereof, on the occasion of any kind of

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entertainment, dance, picnic, bazaar, or festival held by it, is a "limited retail dealer," if the person or organization is not otherwise engaged in business as a dealer.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1344; sec. 1905, Pub. L. 94-455, 90 Stat. 1819, as amended (26 U.S.C. 5122))

[T.D. ATF-271, 53 FR 17552, May 17, 1988]

§ 194.28 Sales of 20 wine gallons (75.7 liters) or more.

Any person who sells or offers for sale distilled spirits, wines, or beer, in quantities of 20 wine gallons (75.7 liters) or more, to the same person at the same time, shall be presumed and held to be a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be, unless such person shows by satisfactory evidence that such sale, or offer for sale, was made to a person other than a dealer.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1413 (26 U.S.C. 5691))

[T.D. ATF-34, 41 FR 46860, Oct. 26, 1976]

SPECIAL TAX LIABILITY OF CERTAIN ORGANIZATIONS, AGENCIES AND PERSONS

§ 194.29 Clubs or similar organizations.

A club or similar organization shall pay special tax if such club or organization:

(a) Furnishes liquors to members under conditions constituting sale (including the acceptance of orders therefor, furnishing the liquors ordered and collecting the price thereof); or

(b) Conducts a bar for the sale of liquors on the occasion of an outing, picnic, or other entertainment, unless the club is a "limited retail dealer" under § 194.27 (the special tax stamp of the proprietor of the premises where the bar is located will not relieve the club or organization of special tax liability); or

(c) Purchases liquors for members without prior agreement concerning payment therefor and such organization subsequently recoups.

However, special tax liability is not incurred if money is collected in advance from members for the purchase of liquors, or money is advanced for pur-

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chase of liquors on agreement with the members for reimbursement.

(72 Stat. 1340, 1343, 1344; 26 U.S.C. 5111, 5121, 5122)

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55843, Sept. 28, 1979; T.D. ATF-271, 53 FR 17552, May 17, 1988]

§ 194.30 Restaurants serving liquors with meals.

Proprietors of restaurants and other persons who serve liquors with meals to customers, though no separate or specific charge for the liquors is made, shall pay special tax.

(72 Stat. 1344; 26 U.S.C. 5122)

§ 194.31 States, political subdivisions thereof, or the District of Columbia.

A State, a political subdivision thereof, or the District of Columbia which engages in the business of selling, or offering for sale, distilled spirits, wines, or beer is not exempt from special tax. However, no such governmental entity shall be required to pay more than one special tax as a retail dealer in liquors regardless of the number of locations at which such entity carries on business as a retail dealer in liquors. Any such governmental entity which has paid the applicable wholesale dealer special tax at its principal office, and has paid the applicable special tax as a retail dealer, shall not be required to pay additional wholesale dealer special tax at its retail stores by reason of the sale thereof of distilled spirits, wines, or beer, to dealers qualified to do business as such within the jurisdiction of such entity.

(72 Stat. 1340, 1343, 1344, as amended; 26 U.S.C. 5111, 5113, 5121, 5123)

[T.D. 7130, 36 FR 12852, July 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975]

§ 194.32 Sales of denatured spirits or articles.

Any person who sells denatured spirits or any substance or preparation made with or containing denatured spirits for use, or for sale for use, for beverage purposes, or who sells any of such products under circumstances from which it might reasonably appear that it is the intention of the purchaser to procure the same for sale or